IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 1117 of 2000

with

CRIMINAL APPEAL NO.98 OF 2001

WITH

CRIMINAL APPEAL No 1118 of 2000

with

CRIMINAL APPEAL NO.1119 OF 2000

with

CRIMINAL APPEAL NO.1120 OF 2000

For Approval and Signature:

HON'BLE MR.JUSTICE J.M.PANCHAL
and
HON'BLE MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAMESHBHAI PRAHLADBHAI

Versus

STATE OF GUJARAT

Appearance:

MS SADHANA SAGAR for appellant

MR KT DAVE APP for respondent-State.

CORAM : HON'BLE MR.JUSTICE J.M.PANCHAL

and

HON'BLE MR.JUSTICE M.H.KADRI

Date of decision: 26/02/2004

COMMON ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE M.H.KADRI)

1. Criminal Appeal No.1117/2000 is filed by the original accused No.1-Rameshbhai Prahladbhai Kulal and original accused No.2- Shaligram Chicha Kalal, Criminal Appeal No.1118/2000 is filed by the original accused No.3-Vishnu Sitaram Chogle and original accused No.4-Ramesh Bhimrao Kulal, Criminal Appeal No.1119/2000 is filed by the original accused No.5- Ramesh Devrao More and original accused No.6-Laxman Motiram Chole, whereas Criminal Appeal No.1120/2000 is filed by the original accused No.7-Gurva Motiram Chogale, challenging their conviction under Sections 395 and 397 of the Indian Penal Code (to be referred to as "IPC" for short) and sentence imposed on each of them of RI for 10 years and fine of Rs.25,000/-, in default, SI for two years for the offence under Section 395 of IPC and sentence imposed on each of them of RI for seven years and fine of Rs.5,000/-, in default, SI for 1 year for the offence under Section 397 of IPC, in judgment and order dated November 15, 2000, recorded by the learned Sessions Judge, Valsad at Navsari in Sessions Case No.70 of 1997. As all the above numbered appeals are directed against common judgment of Sessions Court,this Court proposes to dispose them of by this common judgement.

2. The prosecution case be summarized briefly as under :-

PW 1- Savitaben Ravjibhai, along with her husband Ravjibhai Devabhai Patel, who was serving as a Labour Officer at Navsari was residing in a joint family at Khund Kalavach Faliya, Chikhli. There were no other residential or other houses nearby their house and her house was located in a lonely place. Savitaben had three sons namely, Pravinkumar, Bharatbhai and Kaushikbhai.

Pravinkumar and Bharatbhai were married and the names of their wives were Bhanuben and Kalpanaben respectively. The incident in question had taken place on the night of September 3, 1996, around 1-30 a.m. According to the case of the prosecution, on September 3, 1996, PW 1-Savitaben Ravjibhai and her family members after taking dinner had gone to sleep by closing the iron gate, which was situated in the front of their house. The electric light which was installed outside their house was switched on. At about 1-30 a.m., her husband found that the light which was switched on outside the house was not burning, though its switch was on. Meantime, her son Bharat and daughter-in-law Kalpanaben had awakened from their sleep. PW 2-Ravjibhai had switched on the electric light which was in the front room. PW 2 Ravjibhai saw that there were two to three persons, aged about 30 to 35 years standing on the otta of the house. One person was carrying a knife and another person was carrying a wooden log. The person who was carrying a knife had uttered words in Hindi language asking the inmates to open the door otherwise they would break open the door. The person, who was carrying a knife had also asked the inmates to hand over money to them and threatened that if not done so, their bodies would be cut to pieces. The persons, who had gathered outside the house of PW 1-Savitaben were pelting stones. Therefore, PW 1-Savitaben and her husband shouted and upon hearing the shouts, other members of the family had awakened. All the members of the family had become frightened and they had assembled near the bathroom. Meantime, the persons who had gathered outside the house had broken the lock on the iron gate with the wooden log and other weapons and trespassed into the house. All the persons, who had come inside the house were demanding Rs.3 lacs from the complainant. PW 2-Ravjibhai Devabhai had tried to intervene but he was beaten by the wooden log. The persons who had entered into the house had broken the cupboards and thrown away all the articles which were stored in those cupboards. Gold ornaments which were found from the cupboards and the gold ornaments which were put on by the complainant and her family members were snatched away and stolen by the persons who had entered the house. According to the complainant i.e. PW 1-Savitaben, there were other 6 persons who were standing outside the house to whom the persons who had entered the house had handed over the stolen ornaments. According to the case of the complainant, the persons who had committed dacoity in her house had beaten herself and her husband. As per version of the complainant, there were no other residential or other houses in the adjoining area and her house was located in lonely place. After

the persons who had committed robbery had left the house of the complainant, she had sent her son Pravin to Chikhli Police Station for police assistance around 3-30 to 4-00 a.m./ in the early morning of September 4, 1996. The police personnel of Chikhli Police Station had arrived at the house of the complainant. The complainant and her husband Ravjibhai were taken to Referal Hospital, Chikhli for treatment as both had sustained injuries. PW 1- Savitaben had lodged her F.I.R. before P.S.I. Bhanuprasad Jivanbhai Joshi of Chikhli Police Station which was registered as C.R. No.I 178 of 1996 for the offence under Section 395 of IPC. The investigation of the above crime at the initial stage was handed over to P.S.I. Mr. Joshi. P.S.I. Mr. Joshi had visited the house of the complainant and had drawn the panchnama and collected incriminating articles from the place of the incident. On October 15, 1996, the investigation of the above crime was handed over by P.S.I. Mr. Joshi to P.I.,(LCB) Mr. Mehta. P.I. Mr. Mehta had recorded the statement of PW 2-Ravjibhai Devabhai on January 4, 1997. PW 13- P.S.I. Mr. Raju Ghonderam More, who was discharging his duties as PSI of Talasri Police Station had during the investigation of C.R.No. I 95/96 of Talasri Police Station arrested the accused No.2-Shaligram Chicha Kalal and during the interrogation, the said accused Shaligram Chicha Kalal had shown his willingness to disclose some information and as per the information disclosed by the said accused, muddamal-ornaments were discovered which were ultimately found to be the articles robbed and stolen from the house of the complainant-Savitaben. P.S.I. More of Talasri Police Station had informed Chikhli Police Station about recovery of the stolen articles from the accused No.2-Shaligram Chicha Kalal. The accused persons were brought by Police Constable pursuant to a transfer warrant and were arrested by Chikhli Police Station under an arrest panchnama. The appellant-Gurva Motiram Chogale, original accused No.7, while he was in the custody had shown his willingness to show the place of the incident. Accordingly, two panchas were called and a panchnama under Section 27 of the Evidence Act was drawn. On January 10, 1997, test identification parade of the accused persons was held in the presence of Executive Magistrate, Chikhli. In the said test identification parade, PW 1-Savitaben had identified all the accused persons except accused No. 3-Vishnu Sitaram Chogale and accused No.4-Ramesh Bhimrao Kulal. PW 3Ravjibhai Devabhai in the test identification parade had identified all the 11 accused persons. During the investigation the ornaments which were stollen from the house of the PW 1-Savitaben and PW 2-Ravjibhai, by the accused persons

were found to have been mortgaged to PW 11-Jugraj Mohanlal Jain. The said articles were identified by PW 1-Savitaben and PW 2-Ravjibhai as the articles which were stolen and robbed at the time of dacoity committed by the accused persons. After completion of the investigation, PI Mr. Mehta had submitted charge sheet against all the accused persons in the Court of learned Judicial Magistrate, First Class, Chikhli for the offence punishable under Sections 395, 397, 504 (2) read with Section 114 of the IPC. As the offence under Section 395 and 397 of IPC are exclusively triable by a Court of Sessions, the learned Judicial Magistrate, First Class, Chikhli committed the case to the Sessions Court, Valsad at Navsari which was ultimately numbered as Sessions Case No.70 of 1997.

3. The charge Exh.1 was framed against the appellants-original accused Nos. 1 to 7 and acquitted accused Nos.8,9,10 and 11 for the offences under Sections 395, 397, 506 (2) read with Section 114 of IPC. The charge was read over and explained to the accused persons wherein they had not pleaded guilty and claimed to be tried.

4. In order to prove the charge against the accused persons, the prosecution had examined ; (i) PW 1-Savitaben Ravjibhai at Exh.16, (ii) PW 2-Ravjibhai Devabhai Patel at Exh.19, (iii) PW 3-Sunil Hiraji at Exh.20, (iv) PW 4-Rameshbhai Makanbhai at Exh.22, (v) PW 5-Abdulkarim Mahamadbhai at Exh.24, (vi) PW 6-Bhagubhai Somabhai Lad at Exh.26, (vii) PW 7-Raju Kantilal Soni at Exh.28, (viii) PW 8-Dineshkumar Jivanbhai Baranda at Exh.31, (ix) PW 9-Dr. Mukesh Harivadanbhai Parmar at Exh.34, (x) PW 10-Soheb Parvez Imtiyaz Kaji at Exh.37, (xi) PW 11-Jugraj Mohanlal Jain at Exh.39, (xii) PW 12-Jayantilal Sonraj Shanklesa at Exh.42, (xiii) PW 13-Raju Ghonderam More at Exh.46, (xiv) PW 14-Bhanuprasad Jivanbhai Joshi at Exh.48, (xv) PW 15-Jayshankar Ganpatram Mehta at Exh.49 and (xvi) PW 16-Rameshchandra Pandharinath Patil at Exh.52.

5. The prosecution had relied upon the following documentary evidence in support of its case. (i) F.I.R., Exh.18, (ii) panchnama in respect of the place of incident, Exh.23, (iii) panchnama in respect of the incriminating articles ornaments produced by the goldsmith, Exh.38, (iv) panchnama in respect of weights done for the muddamal articles and identification thereof, Exh.25, (v) discovery panchnama in connection with the discovery of the incriminating articles from the accused No.2, Shaligram Chicha Kalal, Exh.21, (vi)

panchnama in respect of identification parade of the accused persons, Exh.27, (vii) panchnama in respect of the place of incident being showed by the accused No.7-Gurva Motiram,Exh.47, (viii) panchnama in respect of the muddamal articles being identified by the complainant,Exh.40, (ix) receipt of Shilpa Novelty and Super Jewellers, Exh.41, (x) certificate issued by Jayantilal Sonraj (jewellers) Exh.43, (xi) valuation certificate issued by Kantilal Soni, Exh.29, (xii) valuation certificate issued by Kantilal Soni, Exh.30, (xiii) medical certificate issued by the doctor in respect of the injuries sustained by the complainant, PW 1-Savitaben, Exh.53, (xiv) medical certificate issued by the doctor in respect of the injuries sustained by the PW No.2, Ravjibhai Patel, Exh.54 and (xv) medical certificate issued by Dr. Mukesh Parmar in respect of the injuries sustained by the PW 2-Ravjibhai Patel, Exh.35.

6. After recording of the evidence led by the prosecution, the accused persons were questioned with regard to incriminating evidence led by the prosecution against them and their statements came to be recorded under Section 313 of the Code of Criminal Procedure. The common defence of the accused persons was of denial and they had stated that a false case was lodged by the Investigating Agency against them and they were poor labourers and that the identification parade was held by the Executive Magistrate after they were shown to the witnesses. At the end, in their further statements, the accused persons stated that they were innocent, having their own families and children.

7. The learned Sessions Judge, Valsad at Navsari, on appreciation of oral as well as documentary evidence and after hearing the arguments advanced by the learned Addl. Public Prosecutor and the learned advocate for the accused persons, held that the prosecution has proved beyond doubt that the original accused Nos. 1 to 7 had committed dacoity and had stolen the gold as well as silver ornaments and cash from the house of the complainant during the night of 3rd September, 1996 and early morning hours of 4th September, 1996 i.e. around 1-30 to 1-45 hours. It was further held by the learned Sessions Judge that the prosecution has proved beyond doubt that while committing the dacoity, the accused persons had used deadly weapons and had caused injuries/grievous hurt to prosecution witness No.1-Savitaben and prosecution witness No.2-Ravjibhai Devabhai. On the abovereferredto conclusions, the learned Sessions Judge convicted the original accused

Nos.1 to 7 for the offence under Sections 395 and 397 of IPC and imposed sentence on each of them as mentioned earlier. However, the learned Sessions Judge acquitted the original accused Nos.8,9,10 and 11 on the ground that the prosecution has failed to prove any overtact on part of the above accused persons. The original accused Nos.1 to 7 have filed Criminal Appeal No.1117/2000 to 1120/2000, challenging their conviction and sentence imposed on them by the learned Sessions Judge. Criminal Appeal No.98/2001 is filed by the State of Gujarat against the acquittal of the original accused Nos.8 to 11. The respondents-original accused Nos.8 to 11 have not been served and therefore, this Court has separated Criminal Appeal No.98/2001 which shall be heard as and when respondents-original accused Nos.8 to 11 are duly served with the notices of the appeal.

8. Learned advocate Ms. Sadhana Sagar, who has appeared on behalf of the appellants-original accused Nos. 1 to 7 has strenuously urged that the presence of the accused persons was not established beyond reasonable doubt at the time of dacoity in the house of PW 1-Savitaben. Learned advocate for the appellants submitted that the identification parade was held after a long delay of four months and therefore, the identification of the accused persons by the witnesses was highly doubtful. It is contended that the accused persons were coming from lower strata of the society and had come to village Chikhli for labour work and were falsely involved in the present case. In the alternative, it is submitted that the accused persons had undergone sentence of nearly 8 years and therefore, the sentence and fine imposed on each of the appellant be suitably reduced to period already undergone and the appeal be allowed accordingly.

9. Learned Addl. Public Prosecutor Mr. K.T.Dave has vehemently submitted that the appellants-original accused Nos.1 to 7 had committed a heinous crime of dacoity wherein they had used deadly weapons and caused injuries to PW 1-Savitaben and PW 2- Ravjibhai, by taking advantage of situation of their house and breaking open the closed door at the time of commission of dacoity. It is contended by the learned Addl. Public Prosecutor that all the precautions were taken at the time of holding the identification parade by the Executive Magistrate, wherein the witnesses had identified all the accused persons. It is submitted that the incident had taken place in the house of the complainant, PW 1- Savitaben and PW 2- Ravjibhai, wherein they had sufficient opportunity to watch the features, structures, the

complexation and the clothes put on by the appellants. It is submitted that there was sufficient light in the house wherein the incident had lasted for 10 to 15 minutes and during that period the witnesses had sufficient opportunity to see the appellants as a result of which they were identified by the witnesses in the identification parade which was held on January 10, 1997. Learned Addl. Public Prosecutor submitted that the identification could only be held after four months because the accused persons were not traceable and they were only arrested in the month of January, 1997, and therefore, there was as such no delay in holding test identification parade. It is contended that the stolen ornaments were pledged by the accused persons to PW 11 Jugraj Mohanlal Jain which were recovered from his shop and the stolen articles and ornaments were identified by PW 1-Savitaben as the ornaments robbed by the accused persons during the dacoity committed by them on the night of September 3, 1996. It is therefore submitted by learned APP that the prosecution had proved beyond reasonable doubt that the accused persons had committed dacoity on the night of September 3, 2000. The learned counsel for the State Government has further contended that the prosecution has also proved beyond doubt that at the time of committing the dacoity, the accused persons had used deadly weapons and had caused injuries to PW 1-Savitaben and PW 2-Ravjibhai which is proved through their testimony and medical evidence. The learned counsel for the State Government submitted that the accused-appellants had committed serious crime which cannot be viewed lightly and the sentences imposed on each of the appellant do not require to be interfered with in view of the facts and circumstances in which the dacoity was committed at the dead of night of September 3, 1996, in the house of the complainant and PW 2-Ravjibhai, as a result of which the appeals should be dismissed.

10. This Court has undertaken a complete and comprehensive appreciation of all vital features of the case and the entire evidence on record with reference to broad and reasonable probabilities of the case.

11. The contention of the learned counsel for the appellants, Ms. Sadhana Sagar that the prosecution has not proved the identity of the appellant at the time of commission of the dacoity beyond reasonable doubt deserves to be rejected. The witnesses namely, PW 1-Savitaben and PW 2-Ravjibhai have in detail described how the incident in question had taken place on the night of September 3, 1996, when they were all asleep in their

house along with their family members. The appellants first of all had taken out the electric bulb which was placed on the outer side of the house and which was burning on the night of the incident. Thereafter, they had started pelting stones on the house of PW 1-Savitaben to frighten the inmates. The appellants had used filthy language and demanded huge amount of Rs.3 lacs and given threats that if this amount was not handed over, their bodies would be cut to pieces. So uttering, the appellants with the deadly weapons which they were carrying had broken open the iron door and the lock put on it. The said broken lock was found at the time of drawing the panchnama of the place of the incident. Similarly, a bag filled with stones brought for pelting on the house of the PW 1-Savitaben was also recovered at the time of drawing the panchnama of the place of the incident. The appellants and others, who were 11 in number, had used force and overpowered the inhabitants, who were present in the house and frightened them. The keys of the cupboards were made to hand over to the appellants and the appellants had thrown on ground all the articles from the cupboards and other articles which were kept in the room. While snatching away the cash and ring from the hands of PW 1-Savitaben, the accused No.3 had caused injuries on her index finger. The incident of dacoity had lasted for 10 to 15 minutes in the house of the PW 1-Savitaben and PW 2-Ravjibhai and there was sufficient light in the house wherein both the witnesses had ample opportunity to observe the appellants from a close distance all relevant features namely, their complexion, figures, and dress put on by them. By no stretch of imagination it can be said said that the above witnesses had no sufficient opportunity to see the distinguishing features of the appellants when they were committing dacoity in the house of Savitaben. PW 1-Savitaben in the F.I.R. Exh.18, which was filed immediately after the incident had mentioned the description of the persons who had committed dacoity in her house.

12. After committing the dacoity and causing injuries to PW 1-Savitaben and PW 2-Ravjibhai, the appellants had run away from the place of the incident. The appellants belonged to other State i.e. Maharashtra and their whereabouts were not known to the complainant. It was only in the month of January, 1997, that the accused No.2 came to be arrested in connection with some other crime by Police Sub Inspector Mr. More, who was investigating an offence of Talasri Police Station. During the interrogation of the original accused No.2, the stolen ornaments were recovered which were the stolen ornaments

of the complainant-Savitaben. Thereafter, all the accused persons were arrested. The test identification was held immediately after all the accused persons were arrested in the month of January, 1997. The Executive Magistrate- PW 8- Mr.Dineshkumar Jivabhai Baranda, had taken all the precautions before holding the identification parade. The evidence of Mr. Baranda is duly corroborated by the evidence of PW 6-Panch Bhagubhai Somabhai Shah, who has also testified before the Court that before holding the identification parade, the appellants and others were not shown to witnesses at all. On reappreciation of evidence, this Court is satisfied that all the precautions were taken by the Executive Magistrate and the Investigating Agency before holding test identification parade of the appellants and others. In the test identification parade, PW 1- Savitaben had identified all the accused persons except accused Nos. 3 and 4 whereas PW 2- Ravjibhai had identified all the accused persons in the test identification parade. During the trial, PW 1- Savitaben and PW 2-Ravjibhai had also identified the accused persons in the Court as the persons who had committed the dacoity and caused injuries on them with the deadly weapons. The ornaments which were recovered and discovered from the possessions of the appellants during the investigation were duly identified by the witnesses namely, PW 1- Savitaben and PW 2-Ravjibhai as the ornaments which were robbed at the time of commission of the dacoity from their house by the appellants. None of the appellants have offered any explanation as to how the ornaments recovered and discovered during the investigation had come in their possession. In our view, the involvement of all the appellants of the present appeals is proved beyond reasonable doubt by the evidence led by the prosecution.

Section 391 of IPC which defines dacoity reads as under:

> 391 When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting or aiding, is said to commit "dacoity".

The accused persons were more than five when they had committed dacoity and it is established by the evidence of the prosecution witnesses that all the eleven persons had conjointly committed dacoity. As per Section 391 of the IPC, every person who is committing or

attempting to commit such commission of robbery is said to have committed the offence of dacoity. Therefore, all the accused persons, who were identified at the time of the commission of the offence of dacoity in the house of the complainant-Savitaben were liable to be convicted under Section 395 of IPC. Therefore, the finding of the learned Sessions Judge for holding the present appellants-original accused Nos.1 to 7 as guilty for having committed the offence under Section 395 of IPC deserves to be confirmed.

13. At the time of commission of the offence of dacoity, the appellants had used deadly weapons and had caused injuries to PW 1-Savitaben. PW 1 had sustained injuries on her body and the injury certificate is produced at Exh.53, which was proved by the Medical Officer, PW 16 Dr. Ramchandra Pandhrinath Patil, who was discharging duties as Medical Officer in Referal Hospital at Chikhli. PW 16- Dr. Patil had examined PW 1-Savitaben on September 4, 1996 and found that there was clean incised wound of size of 1.3 c.m. X 1/4 c.m. on the right hand index finger. The injury sustained by Savitaben is fully corroborated by the medical evidence of PW 16-Dr. Patil as well as injury certificate Exh.56 which shows that she has sustained injury on her right hand index finger at the time of commission of offence of dacoity.

14. PW 2-Ravjibhai had sustained serious injury on his head and he was examined by PW 16, Dr. Patil of Referal Hospital, Chikhli on September 4, 1996. As per the certificate issued with regard to the injuries on the person of the PW 2-Ravjibhai, Dr. Patil had found one lacerated wound of size of 3" X 1/4 " on which seven stitches were taken. There were two contusion lacerated wounds on the person of witness Ravjibhai. As per the evidence of Dr. Patil, injury No.3 which was CLW on the left temporal region was of serious nature. The evidence of PW 2-Ravjibhai that accused No.7 had given injury with wooden log on his head is fully corroborated by medical evidence of Dr. Patil and the injury certificate Exh.54. After taking preliminary treatment at Referal Hospital, PW 2-Ravjibhai was taken to the Orthopaedic Hospital of PW 9-Dr. Mukesh Parmar at Navsari. At the time of examination of the injured witness, PW 2-Ravjibhai, he had disclosed before Dr. Parmar that he had sustained injuries when unknown persons had assaulted him on the night of September 3, 1996. The above oral as well as documentary evidence of PW 1-Savitaben and PW 2-Ravjibhai which is corroborated by medical evidence of Dr. Patil and Dr. Parmar prove beyond doubt that both the

witnesses had sustained injuries during the commission of the crime of dacoity on the night of September 3, 1996. Therefore, the prosecution has proved beyond doubt that all the accused persons had used deadly weapons at the time of committing the dacoity which is an offence punishable under Section 397 of IPC. Therefore, the finding of the learned Sessions Judge that the prosecution has proved beyond doubt that the appellants had committed the offence punishable under Section 397 of IPC is well founded and deserves to be confirmed.

15. The alternative submission of learned advocate for the appellant Ms. Sadhana Sagar that looking to the financial condition of the appellants and the fact that the appellants have already undergone sentence of eight years, the sentence and fine imposed on each of them be suitable reduced does not deserves any consideration and requires to be rejected. All the appellants are found to have committed serious offences. Dacoity is out of the most serious crimes which it is difficult to detect in the sense of bringing home the offence to the culprits and it is an offence which gives rise to a great deal of misery. In ordinary circumstances a sentence of rigorous imprisonment for a period of seven years is the least sentence which should be passed. Dacoity is a very serious one when grievous hurt is caused. Therefore, sentence of 10 years imprisonment is the proper sentence which should be passed against the assailants.

16. The Court will be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual victim but also against the society to which the criminal and victim belong. The punishment to be awarded for a crime must not be irrelevant but it should conform to and be consistent with the atrocity and brutality with which the crime has been perpetrated, the enormity of the crime warranting public abhorrence and it should "respond to the society's cry for justice against the criminal." In the background of the manner in which the dacoity was committed, the learned Sessions Judge was perfectly justified in imposing sentence of 10 years RI and fine of Rs.25,000/-, in default, SI for two years, for the offence under Section 395 of IPC, this Court does not find any reason to interfere with the sentence and fine imposed on each of the appellants. Similarly, the sentence and fine imposed for the offence under Section 397 of IPC are also eminently just and proper looking to the seriousness of the crime and for the reasons stated above does not call for any interference of this Court.

17. As a result of the foregoing discussion, Criminal Appeal No.1117/2000, filed by the appellant-original accused No.1-Rameshbhai Prahlad Kulal and appellant-original accused No.2-Shaligram Chicha Kalal, Criminal Appeal No.1118/2000, filed by the appellant-original accused No.3-Vishnu Sitaram Chogale and appellant-original accused No.4-Ramesh Bhimrao Kulal, Criminal Appeal No.1119/2000, filed by the appellant-original accused No.5-Ramesh Devrao More and appellant-original accused No.6-Laxman Motiram Chole and Criminal Appeal No.1120/2000, filed by appellant-original accused No.7-Gurva Motiram Chogale are hereby dismissed. The conviction of the appellants-original accused Nos. 1 to 7 for the offence under Sections 395 and 397 of the Indian Penal Code and sentence imposed on each of them of RI for 10 years and fine of Rs.25,000/-, in default, SI for two years for the offence under Section 395 of IPC and sentence imposed on each of them of RI for seven years and fine of Rs.5,000/-, in default, SI for 1 year for the offence under Section 397 of IPC, recorded by the learned Sessions Judge, Surat, Valsad at Navsari vide judgment order dated November 15, 2000, passed in Sessions Case No.70 of 1997, is hereby confirmed.

18. Muddamal be disposed in terms of the directions contained in the impugned judgment.

19. As Criminal Appeal No.98 of 2001, filed by the State against the acquitted respondents-original accused Nos.8,9,10 and 11 is pending because the respondents-original accused Nos.8,9,10 and 11 are not served with the notices of the appeal, the paper books of these appeals and record and proceedings of Sessions Case No.70 of 1997 be retained in the Criminal Department till the final disposal of Criminal Appeal No.98 of 2001.

(J.M.Panchal, J.) (M.H.Kadri,J.)

*mithabhai